IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY NINTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 5792 of 1996

Between:

N.Mahalakshmi d/o late N.Venkata subbaiah,
near vidyut nagar dilshuknagar,
Hyderabad.

..... PETITIONER

And

1 The Govt. of India, rep by its secretary ministry of health,
New Delhi.
2 The Govt. of A.P rep by its secretary,
Family Plannig Department. Secretariat,
Hyderabad.
3 Family Planning Association of India,
Hyderabad branch, Begumpet,
Hyderbad.
4 Commissioner of family welfare,
sultan bazar, Hyderabad.
5 The Additional District Medical and Health Officer (FW) City Family

Welfare Branch, Muncipal co-op of India, tank band,
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction or writ under art 226 of the constitution of India more particularly one in the nature of writ of mandamus or any other appropriate the writ declaring the action of the respondent in retiring the petitioner from service by the order dt.25/1/1996 communication by the endorsement dt.27/1/1996 of the 4th and 5th respondent as illegal and arbitrary and in violation of art 14 & 16 of the

constitution of India and direct the respondent to continue the petitioner in service till attaining the age of 60 years as per the rules of the third respondent association or in alternative direct the respondents to make payment of terminal benefits and pension as applicable to the employees of the State Government and pass such other and further orders.

Counsel for the Petitioner: MR.V.VISWANATHAM

Counsel for the Respondents: GP FOR MEDICAL HEALTH & FAMI.WELFARE

The Court made the following :

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ORDER:

Heard the learned Counsel for the petitioner and the learned Government Pleader for Medical Health & Family Welfare, appearing on behalf of the respondents.

The petitioner herein, who has been working as a Family Welfare Worker with the 3rd respondent-Family Planning Association of India, filed this Writ Petition, inter alia, seeking writ of Mandamus to declare the action of the respondents in retiring her from service by proceedings dated 25-01-1996, which is communicated to her on 27-01-1996, with effect from 31-01-1996, as illegal and arbitrary.

The case of the petitioner, in brief, is that having regard to the fact that she squarely falls well within the definition of worker, as clarified in the letter No.8/FW/CFWB/MCH/96 dated 10-01-1996 issued by the Additional District Medical and Health Officer (FW), City Family Welfare Bureau, M.C.H. Tank Bund, Hyderabad, to the Commissioner, Family Welfare, Andhra Pradesh, Hyderabad, she has to retire only on completion of age of 60 years, but not at the age of 58, which is applicable to the Government employees. It was further submitted that the petitioner was forcibly asked to give a letter on 09-01-1996 for retirement and thereupon the respondent issued the impugned orders. Hence, the Writ Petition.

In the counter-affidavit filed by the respondent No.5 it is submitted that it is only on the basis of the letter filed by the petitioner, she was retired and therefore the petitioner cannot make any grievance out of it.

Having heard the Counsel on either side and on perusal of the material, it is seen that though the petitioner submits in the affidavit filed in support of the writ petition that the said letter dated 09-01-1996 has taken forcibly and thereupon the petitioner was relieved, it is not stated as to why the petitioner did not make any

representation or complaint to the very same authorities or higher authorities in this regard. Though the letter dated 10-01-1996 is subsequent to the date of the letter, alleged to have been filed by the petitioner on 09-01-1996, still it would have enable her to approach the respondents herein with proper application.

In view of the circumstances, especially serious allegations as made, it is not open for this Court to go into the same in exercise of powers under Article 226 of the Constitution of India.

The Writ Petition is, accordingly, disposed of permitting the petitioner to approach the respondents by way of comprehensive representation by pointing out all the facts and circumstances and seeking appropriate reliefs. On receipt of the said representation, the respondents shall dispose of the same on

merits and in accordance with law after giving opportunity to the petitioner. No costs.

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B.PRAKASH RAO, J.

Dated 29-11-2004.

SKMR

……Registrar

To

1 The secretary, Govt. of India, Ministry of Health,
New Delhi.
2 The secretary, Govt. of A.P.,
Family Plannig Department, Secretariat,
Hyderabad.
3 Family Planning Association of India,
Hyderabad branch, Begumpet,
Hyderbad.
4 The Commissioner of Family Welfare,
Sultan Bazar, Hyderabad.
5 The Additional District Medical and Health Officer (FW), City Family

Welfare Branch, Municipal Co-op of India, Tank Band,
Hyderabad.

6. 2 CCs to G.P. for Medical Health & Family Welfare, Hyderabad, High Court

Buildings, Hyderabad (OUT).

7. 2 CD copies.